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Report of the Executive Director on proposed revisions to the Financial Regulations of UNFPA

Summary

The Executive Director hereby submits to the fortieth session of the Governing Council, for its approval, revisions to UNFPA Financial Regulations requiring amendments as a result of Governing Council decisions adopted in June 1990 and May 1992.

Introduction

1. The United Nations Population Fund Financial Regulations were adopted by the Governing Council, in decision 83/17, at its thirtieth session in June 1983 and subsequently amended by decisions 84/21, 90/36 and 92/33, taken respectively at the Council's thirty-first, thirty-seventh and thirty-ninth sessions. The Executive Director hereby submits to the Council for its approval three new financial regulations concerning authorization to procure supplies, equipment and services on behalf of Governments and other organizations, and to enter into cost-sharing arrangements with Governments and/or external donors. These amendments were made necessary as a result of Governing Council decisions adopted in June 1990 and May 1992.

Procurement

2. UNFPA's review of its Financial Regulations and Rules revealed that UNFPA did not have the legislative authority to conclude reimbursable procurement arrangements with Governments, specialized agencies or other inter-governmental and non-governmental organizations. The Fund considered such authority necessary if it was to act as procurement agent as implied in paragraph 7 of Governing Council decision 91/35 of 25 June 1991, which took note of "the existing contraceptive procurement facilities within the United Nations Population Fund and the opportunity for developing countries to avail themselves of its services, if they so wish". While the decision seemed to provide UNFPA with a limited mandate to function as a procurement facility to supply contraceptives for its programmes, it did not of itself seem to provide UNFPA with adequate authority to conclude reimbursable procurement arrangements with concerned agencies and organizations or to act as procurement agent. The United Nations Board of Auditors, in its report on UNFPA's financial statements for the biennium ended at 31 December 1991, emphasized the need for immediate remedial action to establish the necessary legislation authorizing UNFPA to provide procurement services on behalf of other United Nations agencies. Consequently, UNFPA requested the United Nations General Legal Division to assist it in establishing the legislative authority, similar to that of UNICEF or UNDP, for UNFPA to enter into procurement arrangements with governmental agencies and other organizations.

3. In the view of the United Nations General Legal Division, it would be necessary for the Governing Council to adopt specific regulations authorizing UNFPA to undertake procurement functions on behalf of Governments and other organizations in support of activities within its mandate. With the assistance of the United Nations General Legal Division, UNFPA has drafted two new financial regulations to address this issue. Regulation 5.4 would be included in the UNFPA Regulations and Rules under Article V - "Trust Funds"; Regulation 14.6 would be included under Article XIV - "Internal Control". The proposed new regulations are as follows:

Article V - TRUST FUNDS

Regulation 5.4: Funds received by UNFPA under Regulation 14.6 for procurement of supplies, equipment and services on behalf and at the request of Governments, specialized agencies or other inter-governmental or non-governmental organizations shall be treated as trust funds.

Article XIV - INTERNAL CONTROL

Regulation 14.6: Supplies, equipment and services may be provided by UNFPA under procurement arrangements on behalf and at the request of Governments, specialized agencies or other inter-governmental or non-governmental organizations, where such supplies, equipment and services are required for purposes related to UNFPA activities and are consistent with the aims and policies of UNFPA, on the basis of full payment in advance of the procurement activities, to cover all costs, including insurance and service fees, connected with the procurement of such supplies, equipment and services.

4. UNFPA considers that the above text provides the necessary authority for UNFPA to undertake procurement arrangements with Governments and other organizations. It also ensures that UNFPA would be fully paid in advance of the procurement activities for all costs connected with such procurement, including a procurement service fee at a rate established by the Executive Director. This procurement service fee would be accounted for as miscellaneous income of UNFPA.

Cost sharing

5. At its thirty-ninth session, the Governing Council requested "the Executive Director to submit to the Governing Council at its fortieth session proposed amendments to the financial regulations of the United Nations Population Fund which upon consideration by the Governing Council at that session would permit the Executive Director to enter into cost-sharing arrangements with recipient Governments on their request and/or with external donors" (decision 92/33, para. 7).

6. The proposed UNFPA financial regulations on cost-sharing arrangements are patterned on those of UNDP (Financial Regulations 2.2 C (vi), 4.10 and 4.11). UNFPA Regulation 2.2 C (vi) is to be included under Article II - "Definitions"; Regulations 4.12 and 4.13 are to be included under Article IV - "UNFPA Funds". Consequently, current Regulations 4.12 and 4.13 will be renumbered 4.14 and 4.15 respectively. For the purpose of the Financial Regulations of UNFPA, the following definition in respect of "cost-sharing" shall apply.

Article II - DEFINITIONS

Regulation 2.2 C (vi): "Cost sharing" shall mean an arrangement by which the costs of projects that are normally charged to UNFPA regular resources, including the reimbursement of the related administrative and operational service costs paid to executing agencies, are covered in full or in part by a contribution or contributions from the recipient Government, or from one or more Governments other than the recipient Government, or from an organization or organizations of the United Nations system, or from inter-governmental institutions or agencies not part of the United Nations system. Such arrangement may be made on the following basis:

- **Project cost sharing whereby the contribution relates to a specific project;**
- **Programme cost sharing whereby the contribution relates not to a specific project but to all or several projects in a recipient country or region; and**

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- **Third party cost sharing, which can be either project or programme cost sharing, whereby the contribution is paid by one or more entities other than the recipient Government.**

7. The introduction of cost-sharing arrangements, as a new co-financing modality, would permit UNFPA to expand its resources for population activities through contributions from recipient Governments and/or other external donors. The Fund's other principal co-financing modality, multi-bilateral funding under trust funds arrangements, has been operational for some time. The main differences between these two principal co-financing arrangements would relate to how the contributions and expenditures are recorded under each arrangement. Cost-sharing financing would be expected to be simpler and easier to implement. Cost-sharing contributions would be set forth in the project document and/or in a written agreement with the contributing party in advance of project expenditures. All funds under cost-sharing arrangements would be reported as contributions to UNFPA regular resources. Expenditures would be reported in the UNFPA Account. Under the current multi-bilateral funding arrangement, the specific project inputs that the donor wishes to fund are stated in a separate project document and budget as necessary. Expenditures on these items are charged to the trust fund and maintained in a separate ledger. Furthermore, cash contributions in respect of the trust fund are placed in an account that is separate from UNFPA's general resources, and interest is accrued on balances held.

8. Under the proposed cost-sharing arrangement, all cash contributions, including those from recipient Governments and third parties, would be made to the UNFPA Account and commingled with UNFPA regular resources. Although the various co-financers may be supporting specific project inputs, all project funds, regardless of source, would be integrated into a single, consolidated project budget and not segregated by specific contribution.

9. The cost-sharing contribution would be administered by UNFPA in accordance with UNFPA Regulations and Rules and in keeping with standard procedures for the execution of UNFPA projects. Contributions would be paid pursuant to a written agreement made between the contributor and the Executive Director. Such agreement would specify that the contributions should be paid in advance of the implementation of planned activities. Administrative and operational service (AOS) costs for projects executed by United Nations executing agencies would be charged at the rate established by the Governing Council. AOS costs for projects executed by UNFPA, by NGOs, and by Governments, with the assistance of UNFPA field offices, would be charged at rates as determined by the Executive Director, or as approved by the Governing Council when appropriate. Credits earned by charging AOS costs to government-executed projects would be applied to the UNFPA administrative and programme support services (APSS) budget in order to offset administrative expenditures.

Article IV - UNFPA FUNDS

Regulation 4.12: The Executive Director is authorized to enter into cost-sharing agreements, including third party cost-sharing agreements, provided such cost-sharing arrangements have been accepted by the recipient country or countries, subject to such principles as the Governing Council may establish.

Regulation 4.13: Cost-sharing agreements and contributions thereunder shall be subject to the following conditions:

(a) Contributions would be denominated in United States dollars; however, UNFPA would accept payment in the local currency of a recipient Government to the extent that such currency could be used to meet project requirements;

(b) Contributions would be paid pursuant to a written agreement made between the contributor and UNFPA. Such agreement would specify that the contributions should be paid in advance of the implementation of planned activities. All third-party contributions would be accepted subject to the agreement of the recipient Government.

(c) In case of default in making the payments required under sub-paragraph (b) above, UNFPA would be under no obligation to provide funds from its regular programmable resources for any of the activities planned, although it may wish to cover the costs of such activities from its regular resources if such resources are available.